

Application No. 09/724,288
Amendment. dated October 4, 2004
Reply to Office Action of May 3, 2004.

REMARKS/ARGUMENTS

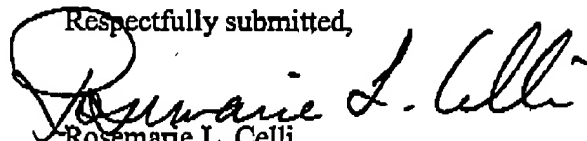
After entry of this response claims 50, 69-70, 73-80, and 90-98 are pending. Claims 50, 69-70, 73-80, and 98 are under consideration as claims 90-97 are directed to a non-elected species.

The Examiner states that the instant application contains claims directed to two patentably distinct species: (A) claims 50, 69-70, 73-80, and 98 directed to the species of "a tissue"; and, (B) claims 90-97 directed to the species of "an amyloid deposit." Applicant elects species A, claims 50, 69-70, 73-80, and 98, with traverse.

The election of species requirement is respectfully traversed on the basis that although the designated species may be patentably distinct they are not mutually exclusive. MPEP 806.04(f) specifies that "[c]laims to be restricted to different species must be mutually exclusive." Here, it is noted that the claims directed to "a tissue" and to "an amyloid deposit" are not mutually exclusive species as evidenced by the fact that claim 73 (which depends from claim 50) and claim 99 (which depends from claim 87) both specify "an amyloid deposit." Because the election of species requirement requires election between nonmutually exclusive species, it is submitted that it should be withdrawn.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,


Rosemarie L. Celli
Reg. No. 42,397

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 650-326-2422
RLC